HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
SECOND APPEAL NO.471 OF 2003.

Bapu Budhala Nikam ..Appellant

Versus

Sou Babai Dinkar Pawar & ors. .Respondent

Mr.L.S.Gaikwad for the appellants

CORAM: S.R.SATHE, J.

DATE : 21st JUNE, 2005

P.C.

1. Heard learned Advocate for the Appellant. The suit filed against the Appellant/the Original Defendant was dismissed. Plaintiff filed Regular Civil Appeal 492 of 1994. The same was allowed and decree for possesion was passed against the Defendant. He filed the present appeal. The learned Advocate for the Appellant argued before me that the substantial question of law which requires consideration is "whether the lower Court has erred in holding that the Will is not proved". From the perusal of the judgment it appears that the First Appellate Court, after taking into consideration the entire evidence has come to the conclusion that the Will is not proved by the Original Defendant and as such the Court negatived the Defendant’s contention that by virtue of the Will the suit property was given to him by Govinda. The learned trial Judge has also held that the Plaintiff has failed to prove the possession. So this finding of fact is

based on the evidence on record. There is nothing to indicate that the finding of the First Appellate Court is perverse or is against the evidence on record. Under, these circumstances, there is no substantial question of law involved in the matter. Hence the Appeal is dismissed in limini.

(S.R.SATHE, J.)